

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	)	
	)	
v.	)	Criminal No. 15-198
	)	
ANDREY GHINKUL	)	

**MOTION FOR PROTECTIVE ORDER FOR DISCOVERY MATERIALS**

AND NOW comes the United States of America, by its attorneys, David J. Hickton, United States Attorney for the Western District of Pennsylvania, and Mary M. Houghton and Shardul S. Desai, Assistant United States Attorneys for said district, and, pursuant to Fed.R.Crim.P. 16 (d)(1), respectfully moves the Court to issue a Protective Order to prevent discovery materials from being disseminated to individuals not directly involved in this prosecution. In support thereof, it is respectfully avers:

1. On September 16, 2015, a federal grand jury returned a nine-count Indictment that charges the defendant, Andrey Ghinkul, with conspiracy, wire fraud, computer fraud, and bank fraud, in violation of 18 U.S.C. §§ 371, 2, 1030(a)(4), 1030(c)(3)(A), 1030(a)(5)(A), 1030(c)(4)(B), 1343, and 1344.

2. The Indictment alleges that the defendant was involved in an international conspiracy to distribute malicious software known as Bugat, which was used to steal online banking credentials of infected victims. The conspirators would use the stolen online banking credentials to initiate unauthorized wire transfers of money that would ultimately be muled to the conspirators.

3. On March 2, 2016, Andrey Ghinkul was arraigned. Since the arraignment, the government has provided and continues to provide materials in discovery.

4. The government's investigation into the Bugat conspiracy is still ongoing. However, disclosure or dissemination of the government's discovery is likely to jeopardize this ongoing investigation.

5. The Court may enter a protective order pursuant to Federal Rule of Criminal Procedure 16(d)(1), which provides "At any time the court may, for good cause, deny, restrict, or defer discovery or inspection, or grant other appropriate relief. The court may permit a party to show good cause by a written statement that the court will inspect ex parte. If relief is granted, the court must preserve the entire text of the party's statement under seal."

6. Most of the reported cases deal with issues that arise when the government seeks a protective order to prevent the defense from having access to certain materials. *See, e.g., United States v. Higgs*, 713 F.2d 39 (3d Cir. 1983)(prosecution sought ex parte protective order to avoid disclosing the identity and addresses of certain government witnesses before trial). This is not the case here. Instead, the protective order sought herein will allow the government to provide broad discovery but will preclude the defendant and defense team from disclosing or disseminating discovery materials or information learned through discovery to others outside.

7. Courts have issued protective orders to preclude public disclosure of discovery materials. *See, e.g., United States v. Wecht*, 484 F.3d 194, 211-13 (3d Cir. 2007); *United States v. Korbe*, No. 09-05, Dkt. # 14 (W.D.Pa. January 14, 2009).

8. The United States, thus, asks the Court to enter a protective order to prevent the defense and the defendant from disclosing or disseminating discovery materials or information to individuals outside the defense team without authorization from the Court. A proposed order is attached.

Respectfully submitted,

DAVID J. HICKTON  
United States Attorney

By: s/ Mary M. Houghton  
MARY M. HOUGHTON  
Assistant U.S. Attorney  
PA No. 31929  
U.S. Attorney's Office  
U.S. Post Office & Courthouse  
700 Grant Street, Suite 4000  
Pittsburgh, PA 15219  
Office: 412-644-3500  
Fax: 412-644-2645  
[mary.houghton@usdoj.gov](mailto:mary.houghton@usdoj.gov)

s/ Shardul S. Desai  
SHARDUL S. DESAI  
Assistant U.S. Attorney  
DC ID No. 990299  
U.S. Attorney's Office  
U.S. Post Office & Courthouse  
700 Grant Street, Suite 4000  
Pittsburgh, PA 15219  
Office: 412-644-3500  
Fax: 412-644-2645  
[shardul.desai@usdoj.gov](mailto:shardul.desai@usdoj.gov)